

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

A) In each of claims 1, 29, and 33, line 10, "m is and integer" has been changed to --m is an integer--;

B) In claim 40:

(a) line 11, "m is and integer" has been changed to --m is an integer--;

(b) line 14, "at least one of the following conditions" has been changed to --a condition in which--;

(c) lines 15-16 have been deleted;

(d) line 17, "(ii)" has been canceled.

C) Claim 41 has been canceled.

D) Claim 42, line 1, "comprising condition (ii)" has been changed to --further comprising a condition in which the concentration of the oily phase based on the total weight of the emulsion is from 50% to 90% w/w--.

3. Claims 1, 9-10, 13, 15, 19, 22-24, and 29 are allowable. The restriction requirement, as set forth in the Office action mailed on 7/24/2009, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an**

allowable claim. Claim 33 directed to a species (b) and claims 40, 42-43, 45, 47-48, 51-52, 56, 60, 62, 73-74, 82-83, 86, 88, 92, and 94-97 directed to a process of preparing microcapsules, are no longer withdrawn from further consideration because the claims require all the limitations of an allowable generic linking claim as required by 37 CFR 1.141.

4. In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

5. Claims 1, 9-10, 13, 15, 19, 22-24, 29, 33, 40, 42-43, 45, 47-48, 51-52, 56, 60, 62, 73-74, 82-83, 86, 88, 92, and 94-97 are allowed.

6. The following is an examiner's statement of reasons for allowance: Applicants' arguments are found persuasive in that the prior art of record does not teach microcapsules, a composition or suspension containing the same, and a method for preparing the same; wherein the weight ratio of the precursors to the core material is from 5/95 to 25/75, in combination with all of the other limitations in claim 1, 29, 33, or 40.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is (571)272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thao T Tran/
Primary Examiner, Art Unit 1787

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